

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[TN-142-9727(b); FRL-5873-1]

**Approval and Promulgation of Revisions to Tennessee SIP Chapter 1200-3-5 Visible Emissions****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

**SUMMARY:** On October 4, 1994 Tennessee submitted, through the Department of Environment and Conservation, a new chapter 1200-3-5 Visible Emissions to replace the existing chapter 1200-3-5 Visible Emissions found in the Tennessee State Implementation Plan (SIP). These revisions include amendments and repeals of existing rules. In the final rules section of this **Federal Register**, the EPA is approving the revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting should do so at this time.

**DATES:** To be considered, comments must be received by September 15, 1997.

**ADDRESSES:** Written comments on this action should be addressed to Randy Terry at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, Atlanta, Georgia 30303.

Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day and reference file TN 142-01-9727. The Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303.

Department of Environment and Conservation, 9th Floor L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

**FOR FURTHER INFORMATION CONTACT:** Randy Terry, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, Georgia 30303. The telephone number is (404) 562-9032.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the rules section **Federal Register**.

Dated: July 9, 1997.

**Michael V. Peyton,**

*Acting Regional Administrator.*

[FR Doc. 97-21698 Filed 8-14-97; 8:45 am]

**BILLING CODE 6560-50-F**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 300**

[FRL-5874-3]

**National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of intent to delete Northwest Transformer South Harkness Street site from the National Priorities List Update; request for comments.

**SUMMARY:** The Environmental Protection Agency (EPA), Region 10, announces its intent to delete the Northwest Transformer South Harkness Street Site in Everson, Washington, from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Washington Department of Ecology (Ecology) have determined that the Site poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

**DATES:** Comments concerning this Site may be submitted on or before September 15, 1997.

**ADDRESSES:** Comments may be mailed to: Timothy H. Brincefield, Environmental Protection Agency, 1200 Sixth Avenue, Mail Stop ECL-111, Seattle, WA 98101.

Comprehensive information on this Site is available through the Region 10 public docket which is available for viewing at the NW Transformer South Harkness Site information repositories at the following locations:

Whatcom County Public Library, Kirsch Drive, Everson, Washington 98247.

United States Environmental Protection Agency, Region 10, Office of Environmental Cleanup—Records Center, Attn: Bob Phillips, 1200 Sixth Avenue, Mail Stop ECL-110, Seattle, Washington 98101.

**FOR FURTHER INFORMATION CONTACT:** Timothy H. Brincefield, U.S. EPA Region 10, 1200 Sixth Avenue, Mail Stop ECL-111, Seattle, Washington 98101, (206) 553-2100.

**SUPPLEMENTARY INFORMATION:****Table of Contents**

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis of Intended Site Deletion

**I. Introduction**

The Environmental Protection Agency (EPA), Region 10 announces its intent to delete a site from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, and requests comments to this deletion. EPA identifies sites on the NPL that appear to present a significant risk to human health or the environment. As described in section 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such actions.

EPA plans to delete the Northwest Transformer South Harkness Street Site ("Site") at 107 South Harkness Street, Everson Washington, from the NPL.

EPA will accept comments on the plan to delete this Site for thirty days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the South Harkness Street Site and explains how the Site meets deletion criteria.

## II. NPL Deletion Criteria

Section 300.425 (e) of the NCP provides that "releases" (sites) may be deleted from, or recategorized on, the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

(i) Responsible parties or other parties have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further action by responsible parties is appropriate, or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants or contaminants remain at the site *above* levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. In the case of the South Harkness Street Site, some hazardous substances were left on-site, therefore, the five-year review requirement of section 121(c) of SARA remains applicable. If new information becomes available that indicates a need for further action, EPA may require remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazard Ranking System.

## III. Deletion Procedures

The following procedures were used for the intended deletion of this Site: (1) The September 29, 1994 ROD included language that documented the achievement of cleanup goals and the fact that no separate close out report was necessary; (2) The Washington Department Of Ecology (Ecology) has concurred with the proposed deletion decision; (3) A notice has been published in the local newspaper and has been distributed to appropriate Federal, State, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and, (4) All relevant documents have been made available for public review in the Site information repositories.

Deletion of the Site from the NPL does not itself, create, alter or revoke any

individual rights or obligations. The NPL is designed primarily for information purposes to assist EPA management. As mentioned in Section II of this Notice, 40 CFR 300.425(e)(3) states that deletion of a site from the NPL does not preclude eligibility for future Fund-financed response actions.

EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision. The Agency will prepare a Responsiveness Summary if any significant public comments are received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by EPA's Regional Office in Seattle, Washington.

## IV. Basis for Intended Site Deletion

The following Site summary provides the Agency's rationale for the intention to delete this Site from the NPL.

### A. Site Background

The South Harkness Superfund Site was a former transformer manufacturing, service and reclamation facility located in a commercial/residential area of downtown Everson, Washington. The site is located in downtown Everson and is bordered by a City Park, Main Street businesses, and South Harkness Street. An alley runs through the site.

The 1-acre facility was operated by the NW Transformer Service Company from 1958 until 1987. The Company used a building on-site to manufacture, recycle and rebuild transformers and an unpaved lot for storage of transformers, drums, bulk materials and salvage. The Company transferred its main storage and salvage operations from its Mission and Pole Roads salvage yard, which is also on the NPL, to the South Harkness Street site in 1985. An Ecology inspection in 1985 detected high levels of polychlorinated biphenyls (PCBs) in on-site soils.

The facility was added to the NPL in 1990 due to PCB and metals contamination in the building and soils. No site-related groundwater contamination has ever been detected and there are no drinking water wells down gradient from the site.

### B. History

The following is a brief summary of the site investigation, removal action, recent sampling results, and current conditions:

- Since the site is small and contaminant levels relatively low, it was addressed with a streamlined approach. The Potentially Responsible Parties (PRPs) agreed on 6/17/92 to perform the necessary Remedial Investigation/Feasibility Study and a removal action if necessary.

- Field Investigations started in January 1993. No contaminants of concern were found in groundwater at the site. The primary contaminants of concern were PCBs (up to 89 ppm in soils and structural materials) and Total Petroleum Hydrocarbons (TPH) up to 63,000 ppm in underlying soils.

- The possibility of significant contamination of the Nooksack River and sediments was determined to be unlikely. The air pathway was also ruled out as a pathway of significant concern.

- After review of an Engineering Evaluation and Cost Analysis of removal alternatives, EPA issued a proposed plan for a removal to eliminate the risk of the building collapsing, to provide additional data for the RI and risk assessment, and to remediate the site in accordance with remedial requirements if possible.

- The removal was performed between November 1993 and June 1994. The site now consists of two modified asphalt parking lots and an alley covering about four feet of clean soil. In most locations PCB concentrations are less than 1 ppm. Two locations show evidence of low-level PCB contaminations at depth beneath the clean soil and asphalt cap (7 ppm at 6 feet below the ground surface and 28 ppm at 12.5 feet).

- TPH is also present in soils beneath the cap/parking lots, at levels up to 24,000 ppm. In accordance with additional State requirements documented in the CERCLA No Further Action ROD, the owners of the affected properties have recorded notices on their deeds acknowledging the presence of contamination and their duty, and that of subsequent property owners, to sample soils if the cap is disturbed and if soils are found to be contaminated, to dispose of them in accordance with State and Federal Law.

- In four years of ground water sampling no detectible quantities of PCBs or TPH have been found. Data from three rounds of groundwater sampling prior to the Removal Action show that no chemicals of concern were detected in site groundwater samples above maximum contaminant levels for drinking. Post-RA groundwater sampling for Site-related contaminants (PCBs and TPH) was conducted in November 1994, March 1995, July 1995,

October 1995, and October 1996. No chemical compounds of concern related to the site were detected in these groundwater samples.

- EPA oversight sampling since the Removal Action has identified the presence of Pentachlorophenol in some groundwater samples, however no evidence of Pentachlorophenol was ever identified at the site during site inspections, field investigations, the Removal Action, or post-removal confirmation sampling. EPA has provided Ecology with these results and the Agencies have agreed that EPA will continue efforts to identify the source and potential impacts of the Pentachlorophenol, but that since there is no evidence to date that the Pentachlorophenol is site-related, its detection should not preclude deletion of this site from the NPL. Note that deleted sites remain eligible for future Fund-financed response actions should future conditions warrant such action, and whenever there is a significant release from a site or portion of a site deleted from the NPL, the site or portion may be restored to the NPL without application of the Hazard Ranking System.

- EPA sees no reason to require continued annual ground water monitoring for PCBs, although periodic monitoring to support five-year reviews may still be appropriate. TPH is being addressed as an additional state requirement, which the Washington Department of Ecology will determine whether or not to continue.

#### C. Characterization of Risk

- The risk assessment was done subsequent to the Removal Action, and documented that current and future potential risks posed by the site are within the acceptable risk range of 10<sup>-5</sup> or less. There is no current pathway for human exposure since all soil contamination has been removed and/or capped and no site-related contaminants of concern have been detected in groundwater. Because site risks were so low, EPA determined that no feasibility study was necessary and no other alternatives were considered or evaluated.

- The site remains a useful parking lot, serving downtown Everson, including the Senior Center and City Hall.

#### D. Public Participation

Community input has been sought by EPA Region 10 throughout the cleanup process at the Site. An information repository was established and has been maintained at the Everson Public Library. Fact sheets and public notices

were distributed when the site was placed on the NPL in 1990, when Notice Letters were sent to the PRPs in December 1991, when the Removal Action was proposed in August 1993, and at several other times.

A public comment period was held from August 16 to September 15, 1993 on the proposed removal action. At that time the public was informed that if the Removal Action was successful, no further action would likely be necessary. EPA issued a Proposed Plan calling for No Further Action on August 24, 1994, and held a public comment period from August 26 to September 26, 1994. A fact sheet and two public notices of the Plan were issued by EPA, but EPA received no public comments on the Proposed Plan.

A copy of the Deletion Docket can be reviewed by the public at the Everson Public Library, or the EPA Region 10 Superfund Records Center. The Deletion Docket includes this Notice, the ROD, Amended ROD, Remedial Action Construction Report, and Final Site Close-Out Report. EPA Region 10 will also announce the availability of the Deletion Docket for public review in a local newspaper and informational fact sheet.

One of the three criteria for deletion specifies that EPA may delete a site from the NPL if "responsible parties or other persons have implemented all appropriate response actions required." EPA, with the concurrence of Ecology, believes that this criterion for deletion has been met. Groundwater and soil data from the Site confirm that the ROD cleanup goals have been achieved. There is no significant threat to human health or the environment and, therefore, no further remedial action is necessary. Consequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available in the docket at the information repositories.

Dated: August 4, 1997.

**Randall F. Smith,**

*Acting Regional Administrator.*

[FR Doc. 97-21380 Filed 8-14-97; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

[CC Docket No. 96-128]

### Pleading Cycle Established For Comment On Remand Issues In The Payphone Proceeding

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document clarifies the status of the requirements in the *Payphone Orders* in light of the D.C. Circuit's decision in *Illinois Public Telecommun.*, and establishes a pleading cycle for comment on issues remanded by that Court.

**DATES:** Comments are due on or before August 26, 1997 and reply comments are due on or before September 9, 1997.

**ADDRESSES:** Office of the Secretary, Federal Communications Commission, Room 222, 1919 M St. N.W., Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Greg Lipscomb, Formal Complaints and Information Branch, Enforcement Division, Common Carrier Bureau. (202) 418-0960.

**SUPPLEMENTARY INFORMATION:** DA 97-1673, August 5, 1997.

*Comments Due: August 26, 1997.*

*Reply Comments Due: September 9, 1997.*

#### I. Introduction

1. This Public Notice clarifies the status of the requirements of the *Payphone Orders*<sup>1</sup> in light of the D.C. Circuit's decision in *Illinois Public Telecommunications Ass'n v. FCC*,<sup>2</sup> and seeks further comment on certain issues raised by that court decision. In *Illinois Public Telecomm.*, the court granted in part and denied in part petitions for judicial review of the *Payphone Orders*. In doing so, however, the court actually vacated only one narrow aspect of those orders, i.e., the asset valuation standard that the Commission adopted with respect to transfers of telephone company payphone assets to separate affiliates. The remaining portions of the orders were either upheld, or remanded to the Commission for further consideration and explanation. Thus,

<sup>1</sup> Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Report and Order, 11 FCC Rcd 20541 (1996) ("Payphone Order"); Order on Reconsideration, 11 FCC Rcd 21233 (1996) ("Order on Reconsideration") (both orders together "Payphone Orders"); 61 Fed. Reg. 65,341 (Dec. 12, 1996).

<sup>2</sup>D.C. Circuit Nos. 96-1394 *et al.* (July 1, 1997).